

Appl. No. 10/823,829  
Amdt. dated March 3, 2008  
Reply to Office action of October 3, 2007

### **ARGUMENTS**

Claims 1-20 are rejected and pending. Applicant submits the Amendment above and the Declaration of Michael A. Evans and respectfully requests reconsideration and withdrawal of all rejections.

Responsive to the rejection of claims (1-4, 14-17, and 20) and (9-13 and 19) under 35 U.S.C. § 101 as being directed to non-statutory subject matter, Applicants submit the following response. Applicants have amended claims 1-4, 14-17, and 20 to recite that the claimed process results in the creation of an individual capability evaluation report. Specifically, Claim 1 now recites the step of "creating a comprehensive individual capability evaluation report" thus providing the concrete, tangible, and useful result. Similarly in Claim 14, there are two concrete, tangible, and useful results produced in the steps of "creating a comprehensive individual capability evaluation report" and "creating an individual action plan document." Applicants have amended claims 9-13 and 19 to claim a computer readable medium, including operating instructions thereon. It is believed that these amendments allow for the removal of the rejections under 35 U.S.C. § 101. Such removal is respectfully requested.

Responsive to the rejection of claims 1-3, 5-7, 9, and 11-13 under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent Publication No. 2002/0045154 to Wood et al., ("Wood") in view of U.S. Patent No. 7,184,969 to Bonstetter et al. ("Bonstetter"), Applicants submit that the Colquitt Declaration explains the differences between the cited references as one of ordinary skill in the art understands the significance of the claim language. Accordingly, Applicants submit that the Colquitt Declaration provides evidence on the interpretation of the cited prior art and the claims in the present applicaion, and compels the Examiner to withdraw the pending prior art rejections and place the application in a condition for allowance.

The declaration of Colquitt demonstrates that the claimed invention is patentable over the combination of Wood and Bonstetler. Wood teaches a system that utilizes one or more instruments to measure the system user's characteristics in order to classify the person into a

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selected personality scheme and to match advice, content and other people with the user based upon the results of the instruments. (Paragraph 45 of Wood). The instruments provide questions to the user to obtain different types of data, including demographic data, psychographic data, personality data (including data that measures cognitive skills and competencies), life style and quality of life data, application specific data, behavioral data, declared preferences data, scenario based testing data and roll play based testing data. (Paragraphs 75 – 168 of Wood). The obtained data is then scored, standardized into alphanumeric representations and compared to personality models so that the user can be classified into a personality scheme. (Paragraph 81 of Wood).

While the personality instruments taught by Wood may be used to obtain data that measures one's skills and competencies, Wood does not disclose, teach or suggest that the instruments may be used to assess a plurality of *attributes* associated with at least one of a plurality of competencies. Combining the competencies of Woods with the testing of competencies to determine attributes by Walters as asserted by the Examiner does not address the assessment of attributes claimed in the present invention. Furthermore, the Walters instrument is used exclusively for selection and uses third party evaluators to candidates (applicants for schools, jobs, etc) with letters of recommendation and/or solicits feedback from questionnaires. The feedback mechanisms in the Walters invention are so varied that a standardized instrument approach could not be identified as compared to the presently claimed invention that uses multiple capability testing instruments. The Walters invention solicits feedback from third party evaluators to select applicants. In contrast, the present invention administers its evaluation to the respondent and cross-references the resulting assessment data to provide a comprehensive individual capability evaluation. See the Colquitt Declaration at paragraphs 4 & 5.

The Wood teaching of multiple tests being "USED IN CONJUNCTION" does not disclose, teach, or suggest the present invention's cross-referencing responses of multiple tests by attributes. In Woods, there is no explicit disclosure regarding "USED IN CONJUNCTION" and

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the dictionary definition of this term only speaks of using multiple tests together. Contrast Woods with the present invention, disclosing and claiming cross-referencing wherein the dictionary definition of cross-references is "a notation or direction at one place to pertinent information at another place." (See paragraph 6 of the Colquitt declaration that shows the difference between the relationship defined in Woods and that defined by the present application). Applicants submit that Wood does not include having references from attributes directed to pertinent information at another place on the multiple tests, and therefore Wood does not disclose, teach, nor suggest the cross-referencing of the present invention.

Bonnstetter discloses a system for analyzing individual competencies for matches with potential jobs. Bonnstetter discloses 23 competencies, each of which is the subject of 9 questions, with the answers to the 9 questions enabling the system to rate the particular competency. Bonnstetter lacks any disclosure, teaching, or suggestion of having a plurality of tests relating to attributes of competencies, and cross-referencing responses in relation to the attributes.

Bonstetter does not add any further teaching or suggestion regarding to the pending claims. In particular, Bonstetter does not disclose a plurality of individual capability tests--rather Bonstetter deals with job analysis questionnaires. As detailed in paragraph 8 of the Colquitt Declaration, Bonstetter relates to competencies as they relate to job requirements and does not deal with attributes. The combination of Wood and Bonstetter does not teach, suggest, or otherwise render obvious the claimed invention, see Colquitt Declaration at paragraph 9. Similarly, the grounds of rejection of Claim 2 are refuted in Colquitt Declaration paragraph 10, and the grounds of rejection of Claim 3 are refuted in Colquitt Declaraion paragraph 11.

Responsive to the rejection of claims 4, 8, 10 and 14-20 under 35 U.S.C. 103(a) as being unpatentable over Wood in view of Bonstetter and further in view of U.S. Patent No. 6,341,267 to Taub ("Taub"), Taub adds no further teaching or suggestion regarding the cross-referencing of attribute assessments in creating comprehensive individual capability evaluations. Therefore, Applicants submit that for the reasons stated above relating to the rejection based on

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Wood and Bonstetter, this rejection has also been traversed. In addition, the Declaration of Colquitt explains the difference between the intervention planning of Taub and the claimed individual capability evaluation, see Colquitt Declaration at paragraphs 18 and 19.

The present invention enables the evaluation of the components of competencies, the constituent attributes, so that relevant attributes may be addressed and the individuals evaluated may be trained in areas to improve those attributes. This allows for individuals to focus on attribute areas, for example those identified in a comprehensive individual capability evaluation, to raise an individual's competencies. In Bonnstetter, an individual is only rated on the gross competency evaluation, with no insight on the component attributes. Thus, the cited prior art references, along or in combination, fail to disclose, teach, or suggest the claimed invention. The Examiner has taken the position that Wood and Bonstetter are sufficiently analogous to the claimed invention. Applicants have provided the evidence of the Colquitt Declaration to refute the position that Wood and Bonstetter (and Taub) render the claimed invention obvious.

For all of the above reasons, Applicants submit that claims 1-20 **are in allowable form** thereby placing the application in condition for allowance. Applicants respectfully request allowance thereof.

Should any questions concerning any of the foregoing arise, Examiner is invited to telephone the undersigned at (317) 237-0300.

In the event that Applicants have overlooked the need for an extension of time or a payment of fee, Applicants hereby conditionally petition therefore and authorize that any charges be made to Deposit Account No. 02-0390, BAKER & DANIELS.

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Respectfully submitted,

s/Kevin R. Erdman/  
Kevin R. Erdman, Reg. No. 33,687  
Attorney for Applicants  
BAKER & DANIELS  
300 North Meridian Street  
Suite 2700  
Indianapolis, IN 46204  
Telephone: (317) 237-0300  
Fax: (317) 237-1000

Enc. Declaration of Alan L. Colquitt  
with attachments  
Exhibits A-G